

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA

AUGUSTA DIVISION

FILED  
U.S. DISTRICT COURT  
AT AUGUSTA, GA.

2006 DEC 22 P 2:34

*L. Lester*  
CLERK, S.D. OF GA.

LACY ANTHONY MITCHELL, )  
Plaintiff, )  
v. ) CV 106-175  
RONALD STRENGTH and RICHMOND )  
COUNTY SHERIFF'S OFFICE, )  
Defendants. )

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**MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

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Plaintiff was incarcerated at the Charles B. Webster Detention Center, in Augusta, Georgia, at the time he filed the above-captioned complaint, ostensibly brought pursuant to 42 U.S.C. § 1983. Plaintiff completed the standard form provided to prisoners (doc. no. 1) and also included an application to proceed *in forma pauperis* (doc. no. 2). However, because it did not appear that Plaintiff wished to file a new civil action,<sup>1</sup> the Court's November 22, 2006 Order directed Plaintiff to inform the Court within ten (10) days if he intended to proceed with this action, or if he simply meant to supplement his previously filed case, Mitchell, 106-cv-163. (Doc. no. 4, pp. 2-3). Plaintiff was warned that if no response was received within this 10-day period, the Court would presume that Plaintiff desired to have this action voluntarily dismissed and would dismiss this action, without prejudice. The time to respond to the Court's November 22, 2006 Order has expired without a response from Plaintiff. As Plaintiff has failed to respond

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<sup>1</sup>The opening sentence of Plaintiff's statement of claim states that "the following is to be attached to Petitioner's (sic) original case . . . [Mitchell v. Potter, 106-cv-163 (S.D. Ga. Nov. 2, 2006)]." (Doc. no. 1, p. 5).

to the Court's November 22, 2006 Order, despite the Court's warning that a failure to do so would be an election to have his case voluntarily dismissed, the Court **REPORTS** and **RECOMMENDS** that this case be **DISMISSED**, without prejudice.<sup>2</sup>

SO REPORTED and RECOMMENDED this 22 day of December, 2006, at Augusta, Georgia.

W. Leon Barfield  
W. LEON BARFIELD  
UNITED STATES MAGISTRATE JUDGE

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<sup>2</sup>Moreover, the Court's November 22, 2006 Order was returned as undeliverable with a mark indicating that Plaintiff is no longer incarcerated at the Charles B. Webster Detention Center. Plaintiff has failed to notify the Court of a change of address. The Local Rules of the Southern District of Georgia dictate that an "assigned Judge may, after notice to counsel of record, *sua sponte* . . . dismiss any action for want of prosecution, with or without prejudice . . . [for] failure to prosecute a civil action with reasonable promptness." Loc. R. 41.1(c). Here, Plaintiff's failure to provide the Court with a valid address amounts not only to a failure to prosecute, but an abandonment of his case. This is precisely the type of neglect contemplated by the Local Rules. Thus, this action is also subject to dismissal for want of prosecution.